

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re: : Case No. 13-52249
:
MCN HEALTH, LLC, : Chapter 7
:
Debtor. : Judge John E. Hoffman, Jr.

TRUSTEE’S OBJECTION TO PROOFS OF CLAIM NO. 67 AND 81

The Chapter 7 Trustee, Frederick L. Ransier (“Trustee”), hereby objects to Claim Nos. 67 and 81 filed by the Ohio Department of Taxation, pursuant to section 502(b) of title 11 of the United States Code (the “Bankruptcy Code”), Rules 3003 and 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rule 3007-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of Ohio (the “Local Rules”). In further support of this Objection, the Trustee respectfully represents as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are section 502(b) of the Bankruptcy Code and Bankruptcy Rules 3003 and 3007. This Objection complies with the requirements set forth in Local Rule 3007-1.

GENERAL BACKGROUND

2. On March 26, 2013 (the “Petition Date”), Sodexo Operations, LLC, Outsource Medical Equipment Services, Inc., and OSU Pathology, LLC (the “Petitioning Creditors”) filed an involuntary Chapter 7 petition for bankruptcy and initiated the above-captioned case.

3. Prior to the Petition Date, the Debtor was in the business of providing various medical services to individuals from, in, and around Newark, Ohio.

4. From the beginning, the Debtor experienced financial issues and never generated a profit. Based upon information and belief, from the beginning, the Debtor continually paid creditors in arrears and, often, in an unreasonably untimely manner. It amassed substantial unsecured debts with such creditors as Taylor Linen, Spine Wave, Inc., OSU Pathology Services, LLC, and Sodexo Healthcare Services, (collectively and together with other similarly situated creditors, the “Standing Creditors”). The Standing Creditors continually held claims against the Debtor from at least early 2010 through the Petition Date.¹

5. Ultimately, the Debtor was unable to restructure itself. On December 28, 2012, the Debtor sold substantially all of its assets to Licking Memorial Hospital (“LMH”), and immediately upon the closing of the sale transaction, ceased all operations.²

6. On April 12, 2013 (the “Relief Date”), this Court entered an order for relief against the Debtor and the Debtor’s Chapter 7 case remains pending before this Court. Frederick L. Ransier was appointed as the Trustee.

7. On May 22, 2013, the Court issued a Notice of Need to File Proof of Claim Due to Recovery of Assets [Doc. No. 35]. The claims bar date was scheduled for August 20, 2013. The claims bar date for governmental entities, pursuant to Rule 3002 of the Federal Rules of Bankruptcy Procedure, was 180 days from the Relief Date.

RELIEF REQUESTED

8. By this Objection, the Trustee seeks entry of an order, pursuant to section 502(b) of the Bankruptcy Code, Bankruptcy Rules 3003 and 3007, and Local Rule 3007-1, (i)

¹ The Trustee expressly reserves the right to object to each Standing Creditor’s claims.

² The name, “The Medical Center of Newark LLC” was sold to LMH as a part of the transaction, therefore, on December 26, 2012, the Debtor registered an amendment with the Ohio Secretary of State changing its name to MCN Health, LLC. The Medical Center of Newark LLC and MCN Health, LLC, as used herein, shall be interchangeable and relate to the Debtor in either its prepetition or post-petition form.

disallowing in full and expunging Claim No. 81 as a late filed; (ii) disallowing in full and expunging Claim No. 67 and Claim No. 81 for failure to provide any support of the claims made; (iii) disallowing or modifying Claim No. 67 and Claim No. 81 to the extent set forth herein for failure to provide adequate support for the claims made; and (iv) disallowing Claim No. 81 to the extent that it makes a duplicate claim.

BASIS OF RELIEF REQUESTED

I. Late Filed Claim

9. Pursuant to the Bar Date Order entered by this Court, any holder of a claim, with certain enumerated exceptions, was required to file a proof of claim with any supporting documentation on or before the Claims Bar Date, August 20, 2013. Governmental Units were required to file a proof of claim with any supporting documentation on or before the Government Bar Date, being 180 days (October 9, 2013) from the Relief Date. The Claim No. 81 represents a new claim that was filed after the Government Bar Date.

10. The Ohio Department of Taxation (“Claimant”) filed Claim No. 81 on August 16, 2016, more than two (2) years after the Government Bar Date. Claim No. 81 states on the first page that it does not amend a proof of claim already filed. On the summary sheet attached to Claim No. 81, the claim is described as a supplemental proof of claim. Further on the summary sheet attached to Claim No. 81, it states that the Debtor is now indebted to the State of Ohio, in addition to the amount claimed in the proof of claim dated August 20, 2013 (presumably Claim No. 67 filed by the Ohio Department of Taxation on August 20, 2013).

11. Claim No. 81 is a claim for a total amount of \$5,729.53, including a priority claim for \$4,138.16 and an unsecured claim for \$1,591.37. A copy of Claim No. 81 is attached as Exhibit 1. Claim No. 81 appears to duplicate the sales tax assessment referred to in Claim No. 67, but it adds interest and penalties. A copy of Claim No. 67 is attached as Exhibit 2. The

summary for Claim No. 81 includes an assessment(s) for Withholding Tax Assessments that do not appear to be included in Claim No. 67. Claim No. 67 includes no description of any claim for Withholding Taxes or Withholding Tax Assessments. Debtor's work force was downsized and the Debtor's facilities were sold in December of 2012. The summaries attached to Claim No. 81 and Claim No. 67 provide no dates of assessment(s), calculation support, or detailed information supporting the amounts included on the summary sheets. The summaries include only general categories such as "Commercial Activity Tax Assessment." The Claimant provides no evidence, accounting, or written documentation in support of Claim No. 81 and Claim No. 67.

12. Based upon the foregoing, it appears that Claim No. 81 is a late filed claim. Accordingly, the Trustee objects to Claim No. 81 and respectfully requests entry of an order expunging and disallowing Claim No. 81 in full.

II. Failure to Provide Sufficient Information to Evidence Claim

13. Claim No. 67 and Claim No. 81 as stated above represent claims that do not include or attach sufficient information or documentation to evidence the validity or amount of the claims as contemplated by Rule 3001(f) of the Bankruptcy Rules.

14. Failure to disallow Claim No. 67 and Claim No. 81 will result in this Claimant receiving unwarranted recoveries against this bankruptcy estate to the detriment of other creditors and parties in interest in this case. Accordingly, the Trustee hereby objects to Claim No. 67 and Claim No. 81 and requests entry of an order disallowing in full and expunging each in full or to the extent not supported.³

³ The Claims may be further objected to by the Trustee. If the Claims are allowed by this Court or if additional support is provided by the Claimants in response to this Omnibus Objection, the Trustee reserves the right to object further on the basis that the Non-Supported Claims be modified or partially disallowed as provided in Section III below.

III. Failure to Provide Information Supporting Full Amount of Claim Made

15. Claim No. 67 and Claim No. 81 alternatively represent claims that include or attach documentation that only partially evidence the claim made.

16. Alternatively, Claim No. 67 and Claim No. 81 require modification and partial disallowance for those amounts that are claimed but no evidence or documentation is provided to support the full amount of the claim made. Failure to disallow the partial amount that is not evidenced or supported will result in this Claimant receiving unwarranted recoveries against this bankruptcy estate to the detriment of other creditors and parties in interest.

DUPLICATE CLAIMS

17. Claim No. 81 appears to duplicate claim(s) that were made pursuant to Claim No. 67. To the extent that Claim No. 81 makes duplicate claim(s), the Trustee objects and respectfully requests an order disallowing in full and expunging said duplicate claim(s). Failure to disallow the duplicate claim(s) will result in this Claimant receiving unwarranted duplicative or multiple recoveries against this bankruptcy estate to the detriment of other parties-in-interest and creditors in this case.

RESERVATION OF RIGHTS

18. The Trustee expressly reserves the right to amend, modify or supplement this Objection or to file further objections with respect the proofs of claim included in this Objection, including, without limitation, objections as to the amounts or classifications asserted in the proofs of claim, or any other proofs of claim (filed or not) against this bankruptcy estate, which are not the subject of this Objection.

NO PREVIOUS REQUEST

19. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an Order, (i) disallowing in full and expunging Claim No. 81 as late filed; (ii) disallowing in full and expunging Claim No. 67 and Claim No. 81 for failure to provide support of the claim made or, in the alternative, disallowing or modifying Claim No. 67 and Claim No. 81 to the extent set forth herein for failure to provide adequate support for the claims made; (iii) disallowing Claim No. 81 on the basis that it is duplicative of Claim No. 67; and (iv) granting the Trustee such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Brenda K. Bowers

Frederick L. Ransier (0020513)

Brenda K. Bowers (0046799)

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street / P.O. Box 1008

Columbus, Ohio 43216-1008

Telephone: (614) 464-6290

Facsimile: (614) 719-5001

E-mail: bkbowers@vorys.com

Attorney for Chapter 7 Trustee,

Frederick L. Ransier

NOTICE OF OBJECTION TO CLAIM

The Chapter 7, Trustee, Frederick L. Ransier, has filed an objection to your claim in this bankruptcy case.

Your claim may be reduced, modified or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to reduce, modify or eliminate your claim, then on or before **thirty (30) days from the date set forth in the Certificate of Service for the objection to claim**, you must file with the court a response explaining your position by mailing your response by regular U.S. mail to United States Bankruptcy Court Clerk for the Southern District of Ohio, 170 North High Street, Columbus, Ohio 43215 OR your attorney must file a response using the court's ECF System.

The court must receive your response on or before the above date.

You must also send a copy of your response either by: 1) the court's ECF System, or 2) regular U.S. mail to:

Frederick L. Ransier, Trustee
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008

and

U.S. Trustee
170 North High Street, Ste. 200
Columbus, Ohio 43215.

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to claim and may enter an order reducing, modifying, or eliminating your claim with further notice or hearing.

/s/ Brenda K. Bowers

Brenda K. Bowers (0046799)

CERTIFICATE OF SERVICE

The undersigned further certifies that a copy of the foregoing was served via U.S. mail, postage prepaid and/or electronic service, to the persons listed below on this 21st day of October, 2016:

- Thomas R Allen allen@aksnlaw.com, doan@aksnlaw.com
- Asst US Trustee (Col) ustpreion09.cb.ecf@usdoj.gov
- Amy L. Bostic abostic@lnlattorneys.com
- Brenda K. Bowers bkbowers@vorys.com
- Carrie M. Brosius cmbrosius@vorys.com, dmkamp@vorys.com, kbconiglio@vorys.com
- Nick V. Cavalieri nick.cavalieri@baileycavalieri.com, BR-ECF@BaileyCavalieri.com
- Kari Balog Coniglio kbconiglio@vorys.com, abecoats@vorys.com
- James R. Cooper jcooper@mgbohiolaw.com
- Jennifer Fate fate@mmmb.com, admin@mmmb.com
- Robert C. Folland Rob.Folland@btlaw.com, kskamfer@btlaw.com
- Erin L. Gapinski gapinski@aksnlaw.com, doan@aksnlaw.com
- Brian M. Gianangeli bgianangeli@mifsudlaw.com
- Wesley Gilliland wgilliland@havenslimited.com
- Kevin E. Humphreys lawyer@columbus.rr.com
- Kenneth C. Johnson kjohnson@bricker.com, rdelsignore@bricker.com
- J Allen Jones ajones@beneschlaw.com, docket@beneschlaw.com
- Mina Nami Khorrami mnkecf@mnk-law.com, rness@mnk-law.com
- Pamela N. Maggied maggiedlaw@midohio.twcbc.com, pmaggied@rrohio.com
- Mitchell Marczewski mitch9999@sbcglobal.net, marczewski99@gmail.com
- David M. Neumann dneumann@twobyfoursight.com, dneumann@dneumann.com
- David M. Neumann dneumann@twobyfoursight.com, dneumann@dneumann.com
- D. Wesley Newhouse wnewhouse@npkhlaw.com, mmaynard@npkhlaw.com
- Timothy G. Pepper pepper@taftlaw.com, welcht@taftlaw.com
- Joseph C. Pickens jpickens@taftlaw.com, khines@taftlaw.com, knaeder@taftlaw.com
- William H. Prophater wprophater@npkhlaw.com, tschlabach@npkhlaw.com
- Kristin Radwanick kristin@susanattorneys.com
- Frederick L. Ransier flransier@vssp.com
- Frederick L. Ransier flransier@vorys.com, oh14@ecfcbis.com
- Peter H. Riddell priddell@riddellcolpa.net, jmorris@riddellcolpa.net
- Arch W. Riley ariley@bernsteinlaw.com, cabbott@bernsteinlaw.com,
pghecf@bernsteinlaw.com, ariley@ecf.courtdrive.com,
cabbott@ecf.courtdrive.com
- Matthew T. Schaeffer matthew.schaeffer@baileycavalieri.com, BR-ECF@BaileyCavalieri.com
- Daniel R. Schimizzi dschimizzi@bernsteinlaw.com, cwirick@bernsteinlaw.com
- Adam M. Schwartz aschwartz@havenslimited.com
- Sharon I. Shanley shanley@taftlaw.com, docket@taftlaw.com, grote@taftlaw.com
- John F. Stock jstock@beneschlaw.com, docket@beneschlaw.com,
jturk@beneschlaw.com, ilee@beneschlaw.com,
vwarden@beneschlaw.com
- Daniel R. Swetnam Daniel.Swetnam@icemiller.com, Deborah.Wolf@icemiller.com
- Myron N. Terlecky mnt@columbuslawyer.net, mlv@columbuslawyer.net
- Glenn C. Thompson gthompson@lawhssm.com, bbishop@lawhssm.com

MCN Health, LLC
ACFB Incorporated
41 South High Street, Suite 2600
Columbus, Ohio 43215
Last Registered Statutory Agent for the
Debtor

Ohio Department of Taxation, Bankruptcy
Division
P.O. Box 530
Columbus, OH 43216

Ohio Department of Taxation
Attn: Ohio Attorney General, Collections
Enforcement
Rebecca Daum, Administrator
150 East Gay Street, 21st Floor
Columbus, OH 43215

/s/ Brenda K. Bowers

Brenda K. Bowers (0046799)

Abbott Laboratories
P. Thompson D345 J23
200 Abbott Park Road
Abbott Park, IL 60064

Acumed LLC
5885 Northwest Cornelius Pass
Rd.
Hillsboro, OR 97124

Alcon Laboratories, Inc.
6201 S. Freeway WX-29
Forth Worth, TX 76134

Allergen, Inc.
c/o Judy Cobin T2-7B
2525 Dupont Drive
Irvine, CA 92612

Amos Sales & Service, Inc.
ATTN: Accounts
Receivables
1700 East St. Andrew Place
Santa Ana, CA 92705

Anthrex, Inc.
ATTN: Tracy Haskins
1370 Creekside Blvd.
Naples, FL 34108

Arthocare Medical Corporation
Legal Dept.
7000 W. William Cannon Drive
Bldg. One
Austin, TX 78735

Bass Berry Sims PLC
150 Third Avenue South
Suite 2800
Nashville, TN 37201

Chris J. Barrett, Partner
Crowe Horwath LLP
10 West Broad St.
Columbus, OH 43215

Baxter HealthCare
ATTN: Gail D'Alesandro WG
1/2S
25212 W IL Rte 120
Round Lake, IL 60073

Beckman Coulter Inc.
c/o Jodi L. Hause
707 Grant Street, Suite 2200
Pittsburgh, PA 15219

Boston Scientific Corp.
ATTN: Joyce Albert
100 Boston Scientific Way
Marlboro, MA 07152

Bracco Diagnostics
Smith Rubin & Assoc.
P.O. Box 639
Belle Chasse, LA 70037

Bresco Solutions, LLC
423 E. Town St., Suite 100
Columbus, OH 43215

C.R. Bard, Inc.
c/o Hunton & Williams LLP
200 Park Ave., 53rd Floor
New York, NY 10166

CareFusion Solutions, LLC
Day Pitney LLP
One Jefferson Road
Parisippa, NJ 07054-2891

Craig Carlile
Ray Quinney & Nebecker
P.C. 86 N. University Ave.,
#430 Provo, UT 84601-4420

Carpenter Oil Company Inc.
P.O. Box 1398
Neward, OH 43058-1398

Cellular Connection
P.O. Box 691
New Albany, OH 43054

Central Ohio PACs, Ltd.
100 East Campus View Blvd.
Suite 100
Columbus, OH 43265

COHR Inc. d/b/a/ Master Plan
ATTN: Sarah Hultman Dunn,
Associate General Counsel
1101 Market Street
Philadelphia, PA 19107

Compliant Healthcare Tech
110 Tradition Trail
Holly Springs, NC 27540

Lynda Curry
1690 Horns Hill Road
Newark, OH 43055

Danco Medical Systems
James S. Daniel
618 Rohrer Drive
Tipp City, OH 45371

Diversified Biologicals LLC
7300 SW 43rd St., Suite 102
Miami, FL 33165

Diversified Biologicals LLC
3453 Pelham Road, Suite 104
Greenville, SC 29615

General Electric Capital Corp.
c/o Reed Smith LLP
ATTN: Kelly A. Tibble
10 S. Wacker Dr., 40th Floor
Chicago, IL 60606

General Electric Company
GE Healthcare Diagnostic
Imaging
c/o 25 Whitney Dr., Suite 10-6
Milford, OH 45150

Given Imaging Inc.
3950 Shackleford Road, Suite
500
Duluth, GA 30096

Bryan Gramlich
Freund Freeze & Arnold
65 E. State St., Suite 800
Columbus, OH 43215

Havens Limited
141 E. Town St.
Columbus, OH 43215

Hologic Limited Partnership
250 Campus Drive
Marlboro, MA 01752

InfoLogix
Stanley Healthcare
4600 Vine Street
Lincoln, NE 68503

Innovasis, Inc.
c/o Craig Carlile Ray Quinney &
Nebeker
86 N. University Ave., #430
Provo, UT 84601

Instrumentation
Laboratory
Werfen USA
180 Hartwell Road
Bedford, MA 01730

Internal Revenue Service
Centralized Insolvency
Operations P.O. Box 7346
Philadelphia, PA 19101-7346

Theodore Johnson
Parms & Company, LLC
585 S. Front St., #220
Columbus, OH 43215

Lawson Products Inc.
8770 W. Bryn Mawr
Chicago, IL 60631

Licking Memorial
Hospital c/o Kenneth C.
Johnson 100 South Third
Street Columbus, OH
43215

MCN Funding II Ltd.
Havens Limited
141 E. Town St.
Columbus, OH 43215

Managing Solutions, Inc.
P.O. Box 27012
Boulder, CO 80308

Mayo Clinic dba Mayo Medical
200 1st St. SW
Rochester, MN 55905

Medi-Dose Inc.
Lock Box 238
Jamison, PA 18974

Mediquant, Inc.
6900 S. Edgerton Rd., Suite 100
Brecksville, OH 44141

Medrad
3930 Edison Lakes Parkway
Mishawaka, IN 46545

Microsurgical Technology
8415 154th Ave. NE
Redmond, WA 98059

Jed Melnick
JAMS
620 8th Avenue, 34th Floor
New York, NY 10018

David L. Mikel, Esq.
210 West Main Street
Troy, OH 45373

Mobile Instrument Service &
Repair, Inc.
333 Water Ave.
Bellefontaine, OH 43311

Timothy P. Nagy
Taft Stettinius & Hollister
LLP 65 E. State St., Suite
1000 Columbus, OH 43215

Newark Medical Office Bldg
Ltd.
Havens Limited
141 E. Town St.
Columbus, OH 43215

Nuance
Communications Inc.
Nancy A. Newark One
Wayside Road
Burlington, MA 01803

OSU Pathology Services
LLC
Joseph C. Pickens, Esq.
65 E. State St., Suite 1000
Columbus, OH 43215

Ohio Department of Taxation
Bankruptcy Division
P.O. Box 530
Columbus, OH 43216

Olympus America Inc.
ATTN: Credit Risk Mgmt
Dept. 3500 Corporate
Parkway
Center Valley, PA 18034

Oracle America, Inc.
c/o Shawn Christianson
55 2nd St., 17th Fl
San Francisco, CA 94105

Orthohelix Surgical Designs,
Inc.
1065 Medina Rd., Suite 500
Medina, OH 44256

Outsource Medical Equipment
Svce
ATTN: Don Erlenbach
P.O. Box 850
Heron, OH 43025

Erin L. Pfefferle
Allen Kuehnle Stovall & Neuman
LLP
17 S. High Street, Suite 1220
Columbus, OH 43215-3441

Phillips Medical Capital
LLC 1111 Old Eagle
School Road Wayne, PA
19087

Principal Life Insurance
Company
711 High Street
Des Moines, IA 50392

Quantum Products
P.O. Box 16451
Irvine, CA 92623

Scientific Instrument Center 1
1616 Transamerica Ct.
Columbus, OH 43228-9332

Scott Riemenschelder
2525 Tiller Lane, Suite 206
Columbus, OH 43231

Shred-It
1370 Research Rd.
Gahanna, OH 43230

SimplexGrinnell
ATTN: Bankruptcy
50 Technology Drive
Westminister, MA 01441

Spine Wave, Inc.
c/o Charlotte Rahrig
3 Enterprise Dr., Suite 210
Shelton, CT 06484

Sodexo, Inc.
c/o Judy Thompson, Esq.
P.O. Box 33127
Charlotte, NC 28233

Sodexo Operations LLC
6081 Hamilton Blvd.
Allentown, PA 18106

St. Jude Medical
ATTN: Melissa Bourque
6300 Bes Cave Rd., Bldg 2
Suite 100
Austin, TX 78746

Stryker Instruments
Lori L. Purkey
2251 East Paris Ave. SE, Suite B
Grand Rapids, MI 49546

Jonathan Swichar
Catherine B. Heitzenrater
Duane Morris LLP
30 South 17th Street
Philadelphia, PA 19103

Sysco Cleveland Inc.
601 S. High St., Second Floor
Columbus, OH 43215

Kelly Taylor
Taylor Linen Company Inc.
1043 Muskingum Ave.
P.O. Box 402
Zanesville, OH 43702

U.S. Dept. of Health & Human
Services
ATTN: Chung-Han Lee
233 N. Michigan Ave., Suite 700
Chicago, IL 60601

United Healthcare Insurance
Co. Rachel A. Smith CDM
UHC
185 Asylum Street 03B
Hartford, CT 06103

W.W. Grainger Inc.
ATTN: Special Collections Dept.
MES17872724257
7300 N. Melvina
Niles, IL 60714

Walter J. Wolske
580 S. High St., Suite 300
Columbus, OH 43215

Waste Management
2625 W. Grandview Rd.
Suite 150
Phoenix, AZ 85023

Woodstock Dietary
Systems 955 Dieckman St.
Woodstock, IL 60098

Zashin & Rich Co., LPA
55 Public Square, 4th Floor
Cleveland, OH 44113

Zimmer, Inc.
Kayla D. Britton Esq.
600 E. 96th Street, Suite 600
Indianapolis, IN 46240